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Amendment Under 37 C.F.R. § 1.116
Expedited Procedure – Art Unit 2155

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 5148
Stephen R. PALM	Art Unit: 2155
Appl. No.: 09/755,085	Examiner: Bates, Kevin T.
Filed: January 8, 2001	Atty. Docket No.: 1875.0030001
For: **Networked Audio Player Transport Protocol and Architecture**	

Arguments to Accompany the Pre-Appeal Brief Request for Review

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop: AF

Sir:

Applicant hereby submits the following Arguments, in five (5) or less total pages, as attachment to the Pre-Appeal Brief Request for Review (Form PTO/SB/33). A Notice of Appeal is concurrently filed.

Arguments

Applicant's arguments in the Reply Under 37 C.F.R. § 1.116, filed on June 19, 2007 in response to the final Office Action mailed March 20, 2007, were not properly considered or responded to by the Examiner. The Examiner's response was legally and factually deficient because the art fails to teach or suggest authentication of a multimedia device as recited in independent claims 1, 7, 8, 14, and 16.

The Examiner has rejected claims 1-10, 14, 16-18 and 20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,192,340 to Abecassis in view of U.S. Patent No. 5,996,015 to Day and further in view of U.S. Patent No. 6,785,244 to Roy. Claims 21 and 22 have been rejected under 35 U.S.C. § 103 as being unpatentable

over Abecassis in view of Day and Rose and further in view U.S. Patent No. 5,479,536 to Comerford.

The Examiner admits that "Abecassis does not explicitly indicate selecting specific clips accomplished by user interaction with a menu generated by the server and that the menu interaction and the multimedia device is authenticated prior to granting access to said plurality of multimedia clips." Final Office Action, p. 3 (emphasis in original). However, the Examiner states that "Roy teaches a system with a client and server where the client receives multimedia content and clips from the server (Column 2, lines 25-36) where the server authenticates the user's request for multimedia clips before the client can gain access (Column 5, lines 5-7)." Final Office Action, pp. 3-4. The Examiner also states in the Advisory Action dated June 6, 2007, that "the idea of authenticating a user device is the same as determining if the request of that device is valid, if the request it valid, then the device is able to submit that request and gain access to the system." Applicant disagrees that the combination of Abecassis, Day and Roy teach the claimed invention.

Roy teaches that the "multimedia bridge 114 then examines whether the request is valid and/or has proper authorization. If the multimedia request of the user device 100 is not valid and/or not authorized, the multimedia bridge 114 sends a rejection message to the user device 100." Col. 5, lines 5-9. However, merely authorizing the user's ***request*** is not sufficient to teach or suggest the claimed invention. Independent claims 1, 7, 8, 14, and 16 each recite authenticating ***a multimedia device*** (not merely a user or a user's request). Authenticating the multimedia device protects against unauthorized devices (not merely users) from downloading multimedia clips. This feature prevents a single user from downloading multimedia clips to unauthorized devices (whether owned

by the user or a third party). Accordingly, the claimed feature of authenticating a multimedia device is simply not taught, discussed or suggested by the art of record. Accordingly, independent claims 1, 7, 8, 14, and 16 are patentable over the art of record.

Further, claims 2-6 and 21 depend from claim 1, claims 9, 10, 12-13 depend from claim 8, and claims 17, 18, 20 and 22 depend from claim 16. For at least the reasons provided above with regard to the independent claims, and further in view of their own features, dependent claims 2-6, 10, 12-13, 17, 18, and 20-22 are patentable over the combination of the applied art.

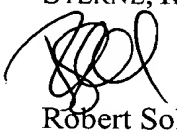
Accordingly, Applicant respectfully requests that the rejection of claims 1-10, 12-14, 16-18 and 20-22 be withdrawn that that these claims be passed to allowance.

Therefore, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) over Abecassis, Day and Roy.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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